

Plain English Guide



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Plain English Guide

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Introduction

In Section 1.4, the White House Commission on Aviation Safety and Security Report (frequently referred to as the “Gore Commission Report”) recommends that “the Federal Aviation Regulations (FARs) should be simplified , and, as appropriate, rewritten as plain English, performance-based regulations.” As recommended by the Gore Commission, the FAA plans a review of its regulations to identify those that could be written as plain English, **performance-based** regulations.

To facilitate both the review process and the writing and rewriting process, the FAA has prepared two guides. The focus of this guide is plain English. Performance-based regulations are addressed in a separate guide.

This plain English guide is in two parts. The first part sets out in outline form the characteristics of plain English regulations and techniques for writing and rewriting regulations in plain English. The second part is the FAA Office of the Chief Counsel Style Manual.

I. Major Principles

A. *When do existing regulations need to be rewritten in plain English?*

If the answer is yes to any of the following questions, the regulation may need to be rewritten in plain English.

- Are there frequent requests for interpretation?
- Is there a variety of different interpretations by FAA inspectors?
- Is there disagreement **among** FAA regions?
- Must a wide range of public users, such as general aviation pilots, be able to understand the regulation and is the current regulation complex and difficult to understand?
- Is the regulation difficult to enforce?

B. *To write or rewrite a regulation in plain English, follow these guidelines:*

1. Emphasize brevity.

- Use brief descriptive topic headings such as:

§ 25.xx Cockpit voice recorders.

§ 25.xx Operating limitations: airspeed.

§ 25.xx Operating limitations: weight and loading distribution.

- Write in short sentences such as:

Each safety equipment control to be used by the crew in an emergency must be marked to show how to use it. For example, controls for automatic liferaft releases must be marked.

(§ 25.1561(a))

- Write in short paragraphs and short sections; for example:

§ 25.xxx Airspeed placard.

Install a placard in clear view of each pilot that shows the maximum airspeeds for flap extension for the takeoff, approach, and landing positions.

- ~~Remove~~ out all unnecessary words; for example:

(iii) Ditching and other evacuation, including the evacuation of persons ~~and their attendants, if any,~~ who may need the assistance of another person to move ~~expeditiously quickly~~ to an exit in ~~the event of an~~ emergency. (§121.417, 1996)

2. Use lists and tables whenever possible.

- Use lists for multiple exceptions or conditions such as:

(a) *Applicability*. This appendix applies to any person who conducts a flight operation through U.S.-controlled airspace except the following flight operations:

- (1) Governmental or military flight operations.
- (2) Flight operations that include a takeoff or landing in the United States.

- Use tables and illustrations; for example, see § 91.121 (b):

Current altimeter setting	Lowest usable flight level
29.92 (or higher)	180
29.91 through 29.42	185
29.41 through 28.92	190
28.91 through 28.42	195
28.41 through 27.92	200
27.91 through 27.42	204
27.41 through 26.92	210

3. Use active voice and positive statements.

- Write in the active voice whenever possible, such as:

When display of aircraft nationality marks would be inconsistent with exhibiting the aircraft, an operator may operate the aircraft without displaying those marks on the aircraft if. . .

- Make positive statements such as:

The pilot in command of a civil aircraft is responsible for determining whether that aircraft is in condition for safe flight. The pilot in command shall discontinue the flight when **unairworthy** mechanical, electrical, or structural conditions occur. (§ 91.7)

- Use personal pronouns if appropriate (see below); for example:

§ 91.3 Responsibility and authority of the pilot in command.

This section explains your responsibility and authority if you are the pilot in command of an aircraft.

(a) You are directly responsible for, and the final authority on, the operation of the aircraft.

(b) In an in-flight emergency requiring immediate action, you may deviate from any rule of this part to meet that emergency.

(c) If you deviate from a rule under paragraph (b) of this section, upon the request of the Administrator you must send a written report of that deviation to the Administrator.

C. Are there limits to the use of plain English?

There are limits to how plain regulations can be. The FAA's most important mission is safety and safety cannot be compromised by efforts to make complex regulations sound simple. Therefore, common sense must prevail over formalistic efforts to meet some arbitrary plain English goal. Some of the limits on using plain English are:

- Regulations typically are an extension of statutory language and most statutes show little, if any, influence of the plain English movement.
- Many regulations are directed at a specialized audience that can read and understand specialized material.
- If regulations are stripped of all technical terms and simplified too much, they may not be technically accurate.
- If plain English is interpreted to mean the use of personal pronouns or the use of questions as headings (two techniques that do not work in every case), the writing may become so informal that it no longer serves as enforceable law.
- Drastic revisions in style, such as the use of "you," should only be made when the new style can be used consistently throughout the text, as when an entire part or subpart is revised.

D. Charts and examples illustrating plain English writing techniques

1. Unnecessary Words

When you have a choice between stating something in a wordy or technical way or stating it simply, state it simply.

Before: (iii) Ditching and other evacuation, including the evacuation of persons and their attendants, if any, who may need the assistance of another person to move expeditiously to an exit in the event of an emergency. (§ 121.417, 1996)	After: (iii) Ditching and other evacuation, including evacuation of persons who may need assistance to move quickly to an exit in an emergency.
Before: (a) Each training program must provide the emergency training set forth in this section with respect to each airplane type, model, and configuration, each required crewmember, and each kind of operation conducted, insofar as appropriate for each crewmember and the certificate holder. (§ 121.417, 1996)	After: (a) Each training program must provide emergency training required in this section as appropriate for the certificate holder for the following: (1) Each airplane type, model, and configuration. (2) Each required crewmember. (3) Each kind of operation.
Before: (e) If the pilot being checked fails any of the required maneuvers, the person giving the proficiency check may give additional training to the pilot during the course of the proficiency check. In addition to repeating the maneuvers failed, the person giving the proficiency check may require the pilot being checked to repeat any other maneuvers he finds are necessary to determine the pilot's proficiency. If the pilot being checked is unable to demonstrate satisfactory performance to the person conducting the check, the certificate holder may not use him nor may he serve in operations under this part until he has satisfactorily completed a proficiency check. (§ 121.441)	After: (e)(1) If the pilot being checked fails any of the required maneuvers, the person giving the proficiency check may do the following: (i) Give additional training to the pilot during the course of the proficiency check and then recheck the failed maneuvers. (ii) Require the pilot being checked to repeat any other maneuvers necessary to determine the pilot's proficiency. (2) If the pilot being checked does not demonstrate satisfactory performance to the person conducting the check, the certificate holder may not use the pilot nor may the pilot serve in operations under this part until the pilot satisfactorily completes a proficiency check.

2. Short Sections

Long sections in the CFR are harder to read than short sections even if they are subdivided into shorter paragraphs. To keep sections to a readable length divide topics within a section into separate sections. For example, § 121.434, Operating experience, operating cycles, and consolidation of knowledge and skills, is a long section that could be broken into shorter sections by repeating the overall topic heading as appropriate and stating a descriptive subheading, such as “all crewmembers” or “flight attendants.” A possible reorganization of § 121.434 follows:

§ 121.434 Operating experience, operating cycles, and consolidation of knowledge and skills: All crewmembers.

- (a) existing (a)
- (b) existing (b)
- (c) existing (f)

§ 121.435 Operating experience and operating cycles: Pilot crewmembers.

Existing (c)

§ 121.436 Operating experience and operating cycles: Flight engineers.

Existing (d)

§ 121.437 Operating experience and operating cycles: Flight attendants.

Existing (e)

§ 121.438 Line operating; flight time for consolidation of knowledge: Pilot crewmembers.

- (a) existing (g)
- (b) existing (h)

There are not enough available section numbers in subpart 0 of part 12.1 to do this as shown without renumbering the entire subpart. Renumbering is typically disruptive for both the regulated and the enforcers of regulations, but if subpart 0 is ever reorganized, it would be **helpful** to break up this section into smaller units.

3. Lists

The following are examples of how text can be rewritten as lists to improve readability:

<p>Before: (a) <i>Applicability</i>. This appendix applies to any person who conducts a flight operation, other than a governmental or military flight operation, through U.S.-controlled airspace that does not include a landing in or takeoff from the United States.</p>	<p>After: (a) <i>Applicability</i>. This appendix applies to any person who conducts a flight operation through U.S.-controlled airspace except the following flight operations:</p> <ul style="list-style-type: none">(1) Governmental or military flight operations.(2) Flight operations that include a takeoff or landing in the United States.
<p>Before: (d) <i>Noise requirements</i>. For propeller-driven small airplanes (except airplanes designed for “agricultural aircraft operations,” as defined in § 137.3 of this chapter, as effective on January 1, 1966, or for dispensing fire fighting materials) that have not had any flight time before the applicable date specified in part 36 of this chapter, and notwithstanding the other provisions of this section, no original restricted category airworthiness certificate is issued under this section unless the Administrator finds that the type design complies with the applicable noise requirements of part 36 of this chapter in addition to the applicable airworthiness requirements of this section. (14 CFR 21.185, 1996)</p>	<p>After: (d) <i>Noise requirements</i>. The FAA issues an original restricted category airworthiness certificate under this section for a propeller-driven small airplane if all of the following circumstances apply:</p> <ul style="list-style-type: none">(1) The airplane is not designed for “agricultural aircraft operations” as defined in § 137.3 of this chapter, as effective on January 1, 1966, or for dispensing fire fighting materials.(2) The airplane has not had any flight time before the applicable date specified in part 36 of this chapter.(3) The Administrator finds that the type design complies with the applicable noise requirements of part 36 of this chapter and with the applicable airworthiness requirements of this section.

If you have to draft an exception within a list and you don't want to include the exception as an item in the list as we have done above, move the exception to another paragraph, but alert your reader to it.

<p>Before: (a) When display of aircraft nationality and registration marks in accordance with §§ 45.21 and 45.23 through 45.33 would be inconsistent with exhibition of that aircraft, a U.S.-registered aircraft may be operated without displaying those marks anywhere on the aircraft if:</p> <p>(1) It is operated for the purpose of exhibition, including a motion picture or television production, or an airshow;</p> <p>(2) Except for practice and test flights necessary for exhibition purposes, it is operated only at the location of the exhibition, between the exhibition locations, and between those locations and the base of operations of the aircraft . . . (14 CFR 45.22, 1996)</p>	<p>After: (a) When display of aircraft nationality and registration marks as required under §§ 45.21 and 45.23 through 45.33 would be inconsistent with exhibiting the aircraft, an operator may operate a U.S.-registered aircraft without displaying those marks anywhere on the aircraft if the following paragraphs (1) and (2) or (1) and (3) apply:</p> <p>(1) The operator is operating the aircraft for the purpose of exhibiting it, such as exhibiting it for a motion picture production, television production, or airshow.</p> <p>(2) The operator is operating the aircraft at the exhibition location, between exhibition locations, or between exhibition locations and the aircraft's base of operations.</p> <p>(3) The operator is operating the aircraft for practice and test flights necessary for exhibition purposes.</p>
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4. Active Voice

Most handbooks for writing recommend using the active voice over the passive voice. This means the subject of the sentence is the doer of the verb. In one of the examples used above, the subject of the sentence was “aircraft” -- “a U.S. aircraft may be operated.” That is passive structure since the doer of the verb “operate” is not the subject; the doer is not in the sentence. If you change it to active, you must say something like “an operator may operate an aircraft.” This takes more words but may result in a clearer regulation.

Examples

Passive:	Active: ,
(b) Refusal by the holder of a certificate issued under this part to take a drug test required under the provisions of appendix I to part 121 or an alcohol test required under the provisions of appendix J to part 121 is grounds for-- (1) Denial of an application for any certificate or rating issued under this part for a period of up to 1 year after the date of such refusal; and (2) Suspension or revocation of any certificate or rating issued under this part. (§63.12b, 1996)	(b) If a holder of a certificate issued under this part refuses to take a drug test required under appendix I to part 121 or an alcohol test required under appendix J to part 121, the FAA may do the following: (1) Deny an application of the certificate holder for any certificate or rating issued under this part for a period of up to 1 year after the date the certificate holder refused the test. (2) Suspend or revoke any certificate or rating held by the certificate holder that the FAA issued under this part.

5. Questions and Answers

The following example shows paragraph (a) of §108.11, Carriage of weapons, rewritten as questions and answers. Some regulations are more easily understood in this format.

<p>Before: (a) No certificate holder required to conduct screening under a security program may permit any person to have, nor may any person have, on or about his or her person or property, a deadly or dangerous weapon, either concealed or unconcealed, accessible to him or her while aboard an airplane for which screening is required unless:</p> <p>(1) The person having the weapon is --</p> <p>(i) An official or employee of the United States, or a State or political subdivision of a State, or of a municipality who is authorized by his or her agency to have the weapon; or</p> <p>(ii) Authorized to have the weapon by the certificate holder and the Administrator and has successfully completed a course of training in the use of firearms acceptable to the Administrator.</p> <p>(2) The person having the weapon needs to have the weapon accessible in connection with the performance of his or her duty from the time he or she would otherwise check it in accordance with paragraph (d) of this section until the time it would be returned after deplaning.</p> <p>(3) The certificate holder is notified-</p> <p>(i) Of the flight on which the armed person intends to have the weapon accessible to him or her at least 1 hour, or</p>	<p>After: (a) <i>To whom does this rule apply?</i></p> <p>(1) The rule applies to a certificate holder required to conduct screening under a security program; and</p> <p>(2) The rule applies to any person traveling on an airplane for which screening is conducted.</p> <p>(b) <i>May a person carry a weapon on board an airplane for which screening is conducted?</i></p> <p>Most of the time, no. A person may not carry a weapon on board. The certificate holder is also responsible for ensuring that a person does not carry a weapon on board. However, in some instances, a certificate holder may permit a person to carry a weapon on board, as described in paragraphs (c) through (e) of this section.</p> <p>(c) <i>Are only certain people allowed to carry weapons on board?</i></p> <p>Yes, only the following persons may carry a weapon:</p> <p>(1) An official or employee of the United States who is authorized by his or her agency to have the weapon.</p> <p>(2) An official or employee of a State or political subdivision of a State who is authorized by his or her agency to have the weapon.</p>
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in an emergency as soon as practicable, before departure; and

(ii) When the armed person is other than an employee or official of the United States, that there is a need for the weapon to be accessible to the armed person in connection with the performance of that person's duty from the time he or she would otherwise check it in accordance with paragraph (d) of this section until the time it would be returned to him or her after deplaning.

(4) The armed person identifies himself or herself to the certificate holder by presenting credentials that include his or her clear, full-face picture, his or her signature, and the signature of the authorizing official of his or her service or the official seal of his or her service. A badge, shield, or similar may not be used as the sole means of identification.

(5) The certificate holder --

(i) Ensures that the armed person is familiar with its procedures for carrying a deadly or dangerous weapon aboard its airplane before the time the person boards the airplane;

(ii) Ensures that the identity of the armed person is known to each law enforcement officer and each employee of the certificate holder responsible for security **during** the boarding of the airplane; and

(iii) Notifies the pilot in command, other appropriate crewmembers, and any other person authorized to have a weapon accessible to him or her aboard the airplane of the location of each authorized armed person aboard the airplane.

(3) An official or employee of a municipality who is authorized by the municipality to have the weapon.

(4) A person who is authorized by the certificate holder and the Administrator to have the weapon and has successfully completed a course of training in the use of firearms acceptable to the Administrator.

(d) *May these persons carry a weapon on board anytime they want to?*
No, they must follow certain procedures set forth in paragraphs (d)(1) through (4) of this section.

(1) The person must need to have the weapon accessible to perform his or her duty from the time he or she would **otherwise** check the weapon until the time it would be returned after deplaning.

(2) The person must notify the certificate holder of the flight on which the person intends to carry the weapon at least an hour before the flight. In the case of an emergency, the person must notify the certificate holder as soon as possible before departure.

(3) If the person is other than an employee or official of the United States, the person must notify the certificate holder that the person has a need to have the weapon accessible to perform his or her duty from the time he or she would otherwise check the weapon until the time it would be returned after deplaning.

(4) The armed person must identify himself or herself to the certificate holder by presenting credentials that include a clear, full-face picture of the armed person, the signature of the armed person, and the signature of the official authorizing the armed person's service or the official seal

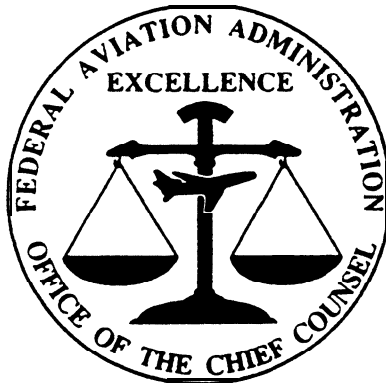
	<p>of the armed person's service. A badge or shield may not be used as the sole means of identification.</p> <p>(e) <i>Are there procedures the certificate holder must follow to allow an armed person on board? Yes, the certificate holder must do the following:</i></p> <p>(1) The certificate holder must ensure that the armed person is familiar with the certificate holder's procedures for carrying a weapon on board before the person boards the flight.</p> <p>(2) The certificate holder must ensure that the identity of the armed person is known to each law enforcement officer and each employee of the certificate holder responsible for security during the boarding of the airplane.</p> <p>(3) The certificate holder must notify the pilot in command, other crewmembers, and other persons authorized to carry a weapon on board of the location of each authorized armed person aboard the aircraft.</p>
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E. Suggested reading

H. Ramsey Fowler	The Little, Brown Handbook (Little, Brown)
Bruce "Ross-Larson	Edit Yourself (W.W. Norton)
William Strunk and E.B. White	The Elements of Style (Allyn and Bacon)
William Zinsser	On Writing Well (Harper and Row)
Robert J. Martineau	Drafting Legislation and Rules in Plain English (West)
David Mellinkoff	Legal Writing: Sense and Nonsense (West)
Richard C. Wydeck	Plain English for Lawyers (Carolina Academic Press)
National Performance Review	How to Write Well (http://www.blm.gov/nhp/NPR/plaineng.html)

STYLE MANUAL

Office of the Chief Counsel



December 7 99 7



US Department of Transportation
Federal Aviation Administration

Introduction

Good writing is **critical** to our success. The key to good **writing** is good rewriting. **Without** effective writing, our clients and the **public** may not understand or **may** misunderstand the law. Either **result could** undermine public safety. In short, every day we must **strive for** excellence; clear, crisp and **concise** writing is the **linchpin** of our ability to **provide effective guidance**.

Unfortunately, lawyers **often resort** to overused **writing techniques** that **cloud communication**: redundancies, **long** sentences, **archaic** legalisms, **indirect** references, passive **voice**, and **overused adverbial phrases—to name a few**. We must **avoid** these poor writing **techniques** like the plague. **Our** clients want and deserve simple and **straightforward written guidance**.

This manual **represents** an attempt to distill the **collective** wisdom of our team to set a **common standard** for the style of memoranda and other documents prepared by our team. In addition to style, the manual also **covers** some **principles** of grammar that **affect clarity**. **Occasionally**, effective **writing** involves departures from the rules in this manual. But we **should not violate** these **rules** through **ignorance** or inattention.

We have included **advice** from **Mightier Than the Sword (MTS)** by Ed Good, who taught legal writing at the University of Virginia Law School and now **conducts courses** in effective writing. We have also **included** advice from **The Texas Law Review Manual on Style (TSM)**, which has a **reputation** as a **concise** and cogent canon on style for legal **writers**. **Of course**, every style manual owes allegiance to **Strunk & White's The Elements of Style (EOS)**. **Finally**, we all owe a special thanks to Don Byrne **for** his extraordinary efforts in making this style manual a **reality**.

Your suggest&s for **revisions** -of this manual and for new material are welcome. Supplements or revised **editions** may be published from time to time. In the meantime, breathe life into this style **manual**. Every written product prepared by our team **should** meet the standard of excellence set in this manual.

Kenneth P. Quinn
Chief Counsel
October 1991

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*Edited by Donald P. Byrne, Assistant **Chief** Counsel
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1. ORGANIZATION AND CONTENT

1.1 Legal Opinions and Interpretations

The usual **format** and order of presentation for a document containing a legal **opinion** or interpretation is as follows:

- (1) **All questions presented.**
- (2) The answer to each question, in summary form.
- (3) The relevant facts.
- (4) The governing rules of law.
- (5) Application of the law to the facts, explaining the answer to each **question**.

1.2 FAR Interpretations

Provisions of the Federal **Aviation Regulations** (FAR) should **not be paraphrased**. The writer should quote the exact words of the **provision**, so that **future** readers **will** know the exact **rule** language at the **time** of the interpretation.

1.3 Procurement Law Opinions

Procurement law opinions should conclude with a recommendation, **when appropriate**.

1.4 Congressional Correspondence

In preparing responses to congressional correspondence:

- (1) **Be responsive. Review the incoming carefully to ensure that all the issues presented have been completely addressed.**
- (2) Begin by describing the nature of the inquiry (at least **generally**).
- (3) **Treat with respect all constituent concerns that underly congressional inquiries, even though we may take issue with the constituent on the matter presented.**
- (4) Review all previous correspondence on the subject of the inquiry, to ensure consistency.

- (5) Follow **AOA-3** and **S-10** formats and special requirements religiously. Remember that punctuation and format **requirements may be** different for **AOA-1** and S-1 letters.
- (6) Plan ahead. If **there** is not enough **time** to prepare a complete response, be sure that an interim **reply** is issued before the **AOA-1** suspense date.

2. SENTENCE STRUCTURE

2.1 Sentence Length — Short

The best professional **prose** on complex or technical **subjects** averages **20 words per sentence**. Long sentences **should not exceed 35** words.

Reduce sentence length by following these recommendations:

- a. **Reduce** the number of messages per sentence.
- b. **Reread unsatisfactory sentences and focus on the subject, verb, and object.** The main message should be in these parts. Consider **eliminating other parts** of the sentence or **putting them in another sentence**.
- c. **Break long** sentences into shorter ones by eliminating **unnecessary** words, by making sentences simpler, and by moving parenthetical expressions to another sentence.
- d. As **soon** as the **subject/verb** unit is complete, consider *ending* the **sentence**.
- e. Convert long compound sentences to **shorter ones** by replacing **“and,” “but,” “or,” “nor,” and “for”** with a period.
- f. Reread each word and ask yourself, “Do I need **this** word? Will anything significant be lost **if I** take it out?” (Doing this **regularly** will form a habit of writing concisely.)

- g. Avoid writing sentences with an unnecessary “It . . . that” **structure**; e.g., “**It** must be noted that...,” “It should be emphasized that it **is....**,” or “**It** is **important to point out** that....”

2.2 Sentence Construction — Subject, Verb, Object

- a. Use straightforward sentence **structure**: subject, verb, object. Avoid putting the main message in clauses and adjective **strings**.
- b. **End sentences swiftly.**
- c. Open sentences **with** the **subject**. Limit nonsubject sentence openers to adverbial phrases and clauses (words or phrases that establish time, place, cause, or **condition**).
- d. **Transitional** elements should be placed **after** the **subject**.

*Example: This argument, however, was a moot point.
[Note that “however” is overused as a transition.]*

- e. Subject and verb should be kept as **close** together as **possible**. (Never separate them by more than seven **words—otherwise** the **reader** will have to reread the **sentence**. Seven is the magic **number**.)
- f. Other separations that **interrupt** a thought should also be avoided. For example, avoid separating the parts of a complex verb.

Avoid: *We should, to ensure that what we write is easy to read and understand, adopt a simple style.*

Avoid separating the verb and its object.

Avoid: *The Board decided to modify, without disagreeing with the Administrator on the facts or questioning the credibility of the principal witness, the sanction against the airman.*

See MTS, pp. 27–32.

- g. Split an infinitive **only** when it is necessary **to** avoid an ambiguity or when your ear demands it. Never split an infinitive in **AOA-1** or **S-1 correspondence**.
- h. Make sentences **affirmative**, not negative. Use negative statements as **denials** or antitheses, but not **as a** means of evasion, See **EOS**, principle 11 of elementary composition.

Avoid: *The judge was **not** very often on time.*

Say: *The judge usually arrived he.*

2.3 Transitions — Avoid Overuse

The best transitions are those that are not conspicuous, but rather are intrinsic to the logic and style of a particular piece of legal writing. Some overused **transitional** phrases and sentences are:

The next issue (case)....

In addition....

It is also important to note....

Furthermore,...

Moreover,....

2.4 Enumeration — Use

Many airmen, judges, and clients find enumeration to be a helpful guide to understanding, bringing clarity to complex material. Use structural enumeration, such as **“First,” “Second,” and “Third”** (or **“Last”**); or **(1), (2), and (3)**, to identify elements or subordinate detail.

2.5 Tabulation — Helpful

When a sentence must necessarily be lengthy and complex, tabulate it. Start the sentence with an introductory phrase and follow it with a colon and individually numbered phrases, parallel in form. Many sections of the Federal Aviation Regulations are examples of this approach. See also MTS at p. 36.

2.6 Indirect References — Eliminate

Avoid using “this” or “that” without adding the word that identifies what **“this”** or “that” refers to; i.e., avoid the grammatical construction of demonstrative **pronoun/antecedent**.

Unclear: ***In the room there was a tug with a large stain in it. This was right in the center.***
[Was the stain in the center of the rug or was the tug in the center of the room?]

Clear: ***A rug with a large stain in it was in the center of the room.***

If you must use **“this”** or **“that”** as a demonstrative pronoun, be sure it is clear **which word or phrase** (antecedent) **you** are referring to.

2.7 Language — Simple

- a. Use simple, short, **familiar words**. A plain style is usually the best style. **Avoid clichés. Avoid jargon. Avoid words and expressions that are clumsy and difficult to read.** (See the list of words and phrases to be avoided in Appendix D of this manual.)
- b. Use unqualified nouns, adjectives, and verbs. The right word ordinarily needs no bolstering.
- c. **Avoid “very”** and other intensifiers with adjectives and adverbs. Instead, use a stronger adjective or adverb.

2.8 Needless Words — Omit

Omit needless words. For example, say **“regularly”** instead of **“on a regular basis.”** Also note that **transition words**, such as **“however,”** are often unnecessary.

See **EOS**, principle 13 of elementary composition.

3. ADVICE ON AVOIDING WORDINESS

3.1 Nouniness

Nouns and adjectives derived **from** verbs cause sentence clutter.

- a. Avoid using a noun derived **from** a **verb** when the base verb alone **will do**.

Avoid: *She **drew** the **conclusion** that*

Say: *She **concluded** that*

Ed Good calls a noun **like** “**conclusion**” a derivative noun, because it is derived **from** a **base** verb (conclude). Hints for **spotting** derivative nouns can be found in **Appendix B** to this manual.

Note that a writer who decides to use a derivative noun must, as Ed says, “grope for” another verb to go with it (in the above example, “drew”). This extra verb adds to the length of the sentence and makes it awkward.

- b. Avoid using an **adjective** derived **from** a verb (a ‘derivative adjective’) when the base verb will do.

Avoid: **The** judge was hesitant in passing sentence.

Say: **The** judge **hesitated** to pass sentence.

Ed’s hints for spotting derivative adjectives can also be found in **Appendix B**.

3.2 Limit the Use of the Verb “To Be”

Unnecessary use of the verb “to be” also causes sentence clutter. **Ed Good recommends using the verb “to be” only when it is used to define or describe, or when it is part of the passive voice.**

Define: *She was the circuit **court** judge.*

Describe: *She was scholarly.*

Passive: *The opinion was issued.*

Do not use “to be” as a means of showing “doing.”

Avoid: *The witness was of the belief that*

Say: *The witness believed that*

See MTS, pp. 61-67.

3.3 There Is (Arc)

Avoiding “there is (are)” can reduce clutter. This construction inverts the usual sentence order and uses a surrogate noun (“there”) to stand in for the subject, which follows the verb. It is especially awkward when used with a “that” or a “which” clause.

Avoid: *There are several factors that the court must consider.*

Say: *The court must consider several factors.*

3.4 Compound Prepositions

Avoid a series of prepositions combined to act as a single preposition (a compound preposition). Replace them with a single preposition.

Avoid: *He read the court’s ruling with respect to preemption.*

Say: *He read the court’s ruling on preemption.*

Refer to Appendix D for a list of words and phrases to be avoided. See also MTS, pp. 73-81.

3.5 Noun Strings as Modifiers

Avoid using long strings of nouns as adjectives.

Avoid: *the defendant's summary judgment **motion***

Say: ***the defendant's motion for summary judgment***

3.6 Clausiness

Replace a clause serving as a noun, adjective, or adverb with a simpler structure **performing the same function**.

Noun Clause: *That he was present at the crime scene was proven **beyond a reasonable doubt**.*

Adjective: ***The automobile bumper, which did not have a scratch on it, was placed into evidence.***

Adverb: ***The jury, after it had deliberated for four days, was unable to come to a verdict.***

Refer to Appendix C for tips on spotting these **three** kinds of clauses and reducing them to simpler grammatical **structures**.

4. SPECIAL PROBLEMS

4.1 Nouns as Verbs

Avoid using nouns as verbs when there is another verb that will convey the same meaning. For example, use **“affect”** instead of “impact.”

4.2 Hyphenated Forms

Be aware of the difference between verb, noun, and adjective forms of the same phrase.

a. Verbs **Used** as Adjectives.

When the basic part of a verb is made up of more than one word, the adjective **form** of the verb is usually hyphenated. For example, the adjective **form** of the verb “phase out” is “phase-out.”

b. Compound **Modifiers**

Hyphenate compound **modifiers**, e.g., **2-hour** classes, **passenger-carrying** aircraft, **safety-related** rules.

c. **Pilot in Command**

Use “**pilot in command**” as the noun **form** and “**pilot-in-command**” as the adjective **form**.

d. **United States**

Use “**United States**” as the noun **form** and “**U.S.**” as the adjective **form**.

4.3 Exclamation Point

Unless an exclamation point occurs in a **direct** quotation, it **should** not be used by legal writers. It is rarely appropriate for professional writing of any kind

4.4 Quotations

Avoid long block quotes. Avoid excessive **underlining**, with the **well-worn** attribution “(emphasis added).” Do not use quotes for emphasis; **instead, use italic or underlining**. Quotes are **appropriate only when an attribution is intended**. Also, **do not use quotes around slang or informal words**. Use the words without Quotes or add a **qualifier** such as “known as” or “so-c&d.”

4.5 And/Or

“**And/or**” is is too **informal** for legal writing.. This **expression** is **generally** understood to mean “either X or Y or both.” Some schools of thought say “**and**” **can** mean “**and/or**,” others say “**or**” **can** also mean “**and/or**.” Where the meaning of “**and**” or “**of**” could be ambiguous, be specific. Say, “**both X and Y**,” or “**X or Y**, but not **both**,” or “**Either X or Y**, or **both**.”

Incorrect: *Persons with a drug problem may lose their jobs and/or go to jail.*

Correct: *Persons with a drug problem may (either) lose their jobs or go to jail, or both.*

4.6 Fact

Expressions containing the word “fact,” such as “in fact” and “in point of fact,” can usually be **eliminated**. The expression “the fact that” can usually be shortened.

Example: *In spite of the fact that (substitute: because)*

Example: *The fact that we lost the case (substitute: our loss)*

4.7 Such

- a. Do not use “such” as a pronoun.

Incorrect: *We thought the hearing was on Thursday, but such was not the case.*

Correct: *We thought the hearing was on Thursday, but that was not the case.*

- b. Do not use “such” to point to a **person** or thing already referred to, **when** the meaning is “above-mentioned.” Instead, use: that, this, those, these, its, or the. “Such” may be used when the meaning is “of this or that kind, character, or degree.”

Incorrect: *The association believed the regulation would be costly. Such conclusion was unfounded.*

Correct: *The association believed the regulation would be costly. That (its) conclusion was unfounded.*

C o r r e c *Many commenters believed the regulation would be costly. Such conclusions were unfounded.*

- c. “Such” may be used to introduce a noun or pronoun, but not a *verb*.

Incorrect: *Decisions such as are made by mediators are unreviewable.*

Correct: *Decisions such as those made by mediators are unreviewable.*

- d. “Such a” may be used as an adverb meaning “so.”

Example: *They had never received such an (so) overwhelming (a) response to a proposal.*

See **TSM, 2:17:59.**

4.8 use Words Correctly

Use words idiomatically and with **precision**. For example, know when to use “compare to” and “compare with.” Know the **difference** between “aggravate” and “irritate,” and “imply” and “infer.”

When in doubt, refer to a dictionary or to glossaries of idioms and misused words found in **TSM** and the other works **referenced** in **Appendix A**.

4.9 Capitalizing

The word “Nation” should always be capitalized when **referring** to the United States. The words “**Federal**” and “**Government**” are always capitalized, when referring to the **U.S. Government**.

4.10 Acronyms

When making an acronym plural, add apostrophe “s”, **e.g., NPRM’s**.

4.11 Commas

Do not place a comma between a month and a year, e.g., “February 1985” **not** “February, 1985”. **Always place a comma after the year when the month, day, and year are used**, e.g., “the February 12, 1985, order.”

In a series of three or **more** words, phrases, or clauses, place a comma between all elements in the series, e.g., apples, **oranges, and** pears. **Do not omit the comma before the conjunction**. Use semicolons to separate items in a series if they are long or contain commas. See LBH, Chapter , 22.

4.12 Numbers

Numbers should always be expressed as figures when stating **increments of time and measurement**, e.g., 15 miles, 30 *hours*, 2 *days*, 1 month.

Otherwise, when the number is less than 10, it **should** be spelled out, *e.g.*, three pilots, one book, nine tables. When the number is 10 or more, figures should be used, (e.g., 500 books), unless the number begins a sentence. In the **latter** case it should be spelled out.

When writing a series of numbers and one is 10 or larger, figures should be used throughout the series, *e.g.*, 30 charts, 15 chairs, and 2 shelves. **When there is an increment of time or measurement in a sentence**, it does not **affect** the rules for other numbers; e.g., **The children left the school 5 minutes ago carrying three books each**

5. GRAMMAR PROBLEMS THAT AFFECT CLARITY

Some people argue that certain grammatical errors are harmless because the meaning is clear from the context, **These** errors, however, may distract **readers from** your message and should be avoided.

5.1 Misplaced Modifiers

Place modifiers where they will clearly modify the words intended. This is usually as close as possible **to the words they** modify.

Unclear: *We were unhappy that the court failed to vote for reconsideration by a narrow margin. [The sentence could mean that we wanted to win only by a narrow margin.]*

Clear: *We were unhappy that the court failed by a narrow margin to vote for reconsideration.*

5.2 Limiting Modifiers

Limiting modifiers are: almost, also, even, ever, hardly, merely, nearly, not, only, scarcely

place limiting modifiers carefully—usually directly before the part of the sentence they strictly modify.

unclear: *They only talked to each other during the recess.*

Clear: *They talked only w each other during the recess. [They talked w no one but each other.]*

Clear: *They talked w each other only during the recess, [They did not talk to each other at other times.]*

5.3 Dangling Modifiers

A “dangling modifier” is a word or phrase that modifies a term not found in the sentence or that appears to modify the wrong word. The reader **can be confused** (or amused) because the word or phrase may appear to modify the closest noun or the subject of the sentence.

Dangling: *Shortly after leaving home, the accident occurred. [The accident did not leave home.]*

Dangling modifiers include:

Gerund phrases: *In examining the case, the rule of law was clear.*

Infinitive phrases: *To finish the brief, the library was unlocked.*

Participial phrases: *Deciding the case, no sympathy was given to the plaintiff.*

Elliptical clauses, i.e., clauses with the subject and/or verb understood: *While on travel, no library was available.*

If the meaning of an **elliptical** clause is clear (and passes the laugh test), it is acceptable.

To correct dangling modifiers:

- a. Turn the modifying phrase into a clause.

Dangling: *In examining the case, the rule of law* was clear.

Corrected: *When the judge examined the case, the rule of law was clear.*

- b. Change the subject of the sentence to the word the modifier properly defines or describes.

Corrected: *In examining the case, the judge found the rule of law to be clear.*

5.4 Possessive with Gerund

A gerund is the “**ing**” form of a verb (walking, driving) used as a noun. Like **nouns**, gerunds are usually preceded by a possessive noun or pronoun.

Correct: *We noticed Ann’s driving.*

[“Driving” serves as a noun, and “Ann’s” serves as an adjective.]

Failure to use the possessive can **alter** the meaning of the **sentence**:

Incorrect: *We noticed Ann driving.*

*[Without the **possessive**, the sentence means **that** we noticed Ann, who happened to be driving. Here “Ann” serves **as** the **noun**, and “driving” serves **as** the **adjective**. In this case, “driving” is a **participle**(verb-adjective), not a gerund (verb-noun).]*

One exception to the above rule is: Do not use the possessive if the result would be awkward.

Correct: *There was no possibility of anything happening.*

See section 6h in LBH and section 2:2 in the TSM, Gerund Phrases.

5.5 Faulty Sentence Construction

Faulty sentence construction (faulty syntax) **involves** using a part of speech to perform the **function** of another part of speech, **contrary** to the rules of grammar. When this mistake is made, **it** usually involves using an adverb clause in the **role** of a noun **clause**.

Incorrect: *The reason he filed late is because the printer broke down.*

Correct: *The reason he filed late is that the printer broke down.*

Incorrect: *The courtroom is where you need nerves of steel.*

Correct: *The courtroom is the place where you need nerves of steel.*

Incorrect: *An example of honesty is when you pay even if the gate were left open.*

Correct: ***Honesty is exemplified when you pay even if the gate were left open.***

See section 15a in LBH.

5.6 Mismatch *Involving Semantics*

A mismatch involving semantics (meaning) typically occurs when the noun construction that follows the verb (grammatically, the predicate nominative) does not actually go with the true subject of the sentence; Instead of modifying the subject, it modifies an adjective or some other **noun**. This mistake often results in unintended humor.

Incorrect: ***Abused children should not be tolerated in our society.***

Correct: ***The abuse of children should not be tolerated in our society.***

Incorrect: ***The source of Hemingway's title is taken from a sermon by John Donne.***

correct: ***Hemingway's title is taken from a sermon by John Donne.***

See section 15b in LBH (“faulty predication”).

5.7 Parallel Construction

Members of a series (words, phrases, clauses) should be of the same grammatical construction.

Not Parallel: ***They studied torts, real property, and how contracts are interpreted.*** (*noun, noun, and clause*)

Parallel: ***They studied torts, real property, and contracts.***

Not Parallel: ***She learned to research case law, to write briefs, and the art of oral argument.*** (*infinitive phrase, infinitive phrase, and noun*)

Parallel: *She learned **to** research **case law**, to write briefs, and to make oral arguments.*

Not Parallel: *In his praise of the firm, he mentioned the **helpful partners**, **that the offices were** large, and **that** the support **staff was friendly**. (noun, clause, and clause)*

Parallel: *In his praise of the firm, he mentioned that the partners **were helpful**, **that the offices were large**, and that the support **staff was friendly**.*

See section 17 in LBH.

Besides being a requirement of **good** grammar, parallel construction **is** an ineffective tool for persuasive writing. Numerous examples of this tool can be found in MTS.

5.8 That vs. Which

That” performs a limiting, restricting, or **defining function** for the **word** or phrase it modifies. A “that” clause should not be set off **from** the rest of the **sentence** by commas.

*Example: The case **that** was cited by the petitioner is not persuasive.*

The function of “which” is to signal a clause that **does not limit, restrict, or define**. (Some authorities allow the use of “which” as well as “that” to introduce a restrictive clause, but it is the policy of this office not to use “which” in this manner.) A “which” clause should be set off by commas, since it is not restrictive.

*Example: The Smith case, **which** was cited by the petitioner, is not persuasive.*

For a discussion of punctuating “which” clauses and other “parenthetical” expressions, see EOS, Rule 3 of elementary usage.

5.9 Passive Voice

Nearly all sentences should be in the active voice. The active voice is more forceful. Using it puts the doer of the action in the subject position and the receiver in the object position.

Be sure to use the active voice-

- **If the reader needs to know the doer of the action; or**
- **If you want the reader to know the doer of the action.**

Passive voice is useful if you wish to:

- **Emphasize** what was done rather than who did it;
- Vary sentence structure;
- **Depersonalize** (or make the actor anonymous);
- **Emphasize facts;** or
- **Avoid sexist language.**

APPENDIX A .

Required Authorities and Standards

Order **1360.16**, *FAA Correspondence Manual*
[Required by the Federal **Aviation** Administration]

. **United** States Government Printing Office **Style** Manual
[Required for the **entire Federal Government**]

References

Essentials of English (EOE)
published by **Barron's** Educational Series, Inc.
[Recommended by the Executive **Secretariats** of the **Office** of the
Administrator, **AOA-3**, and the **Office** of the Secretary, **S-10**.]

Mightier Than the Sword (MTS)
by Ed Good

The Elements of Style (EOS)
by William **Strunk** Jr. and **E. B.** White
[Recommended by the Executive Secretariats of the **Office** of the
Administrator, **AOA-3**, and the **Office** of the Secretary, **S-10**.]

The Little, Brown Handbook (LBH)
published by Scott, **Foresman** and Co.
[**This grammar** is used by the Regulations and Enforcement
Division, **AGC-200**, and the **Office** of Rulemaking, **ARM**, as a
common reference work for drafting **regulatory** documents.]

The Texas Law Review Manual on Style (TSM)

APPENDIX B

ED GOOD'S TIPS FOR SPOTTING NOUNINESS MTS, pp. 43-58.

1. To spot derivative nouns look for these endings on nouns:

-ent/ -ant -em%/ -ance -ency/ -ancy -ment -tion/ -sion
(statement)(**pertinence**)(expediency)(assignment)(**conclusion**)

Also look for nouns that have the same form as a verb, such as “change” and “use.” If they are used with a “**groped-for**” verb, they can be **converted into just the base verb of the noun.**

Example: *He made a change in the **rule**.*

*Instead **say:** He changed the rule.*

2. Look for “**groped-for**” verbs. These **are** the extra verbs that must be coupled with derivative nouns to complete the sentence. They include: has, make, take, drew, reach, is, was, make, and **find**.

Avoid: *Her testimony **is pertinent** to the subject of our inquiry.*

Say: *Her **testimony** **pertains to** the subject of our **inquiry**.*

Avoid: ***The** court **drew** the **inference** that he was present at the scene of the crime.*

Say: ***The** court **inferred** that he was **present at the scene** of the crime.*

3. To spot derivative **adjectives** look for these endings on adjectives:

-ent	-ant	-ful	-able
(reverent)	(hesitant)	(hopeful)	(preventable)

Avoid: *The **plaintiff** was **hopeful** that he would prevail.*

Say: *The **plaintiff** **hoped** he would win.*

APPENDIX C

ED GOOD'S TIPS FOR SPOTTING AND REPLACING CLAUSES MTS, pp. 86-113.

Here **are** Ed Good's tips for cutting noun, adjective, and adverb clauses down to simpler constructions.

A. Noun Clauses

A noun clause **serves** the same **grammatical** function as a noun. Noun' clauses typically **start** with one of the following: how, that, the fact that, **what**, **why**, where, whether, whoever, whomever.

Example: *That he visited the crime scene was proven by his finger prints.*

Tip 1 *If the main **verb** in the noun clause ("visited") is not the verb "to be," find a noun similar in meaning to the **verb**.*

Alternative: *His visit to the crime scene **was** proven by his fingerprints.*

Tip 2 *Try adding "ing" to the main verb of the clause, making it a gerund (verb-noun).*

Alternative: *His visiting the crime scene was proven by his fingerprints.*

Tip 3 *If the main verb in the noun clause is the verb "to be" and is followed by an adjective (a predicate adjective), find a noun similar in meaning to the adjective.*

Example: *That he was present at the crime scene was proven beyond a reasonable doubt.*

Alternative: *His presence at the crime scene was proven beyond a reasonable doubt.*

Tip 4 *If the main verb in the noun clause is **the verb “to be”** and is followed by a noun (a predicate nominative), a solution may not be possible. Try changing the verb to a gerund to shorten **the sentence** somewhat. Ed also suggests trying to use a “status phrase.”*

Example: *The Court was aware that he was a felon.*

Alternative: *The Court was aware of his being a felon.*

Alternative: *The Court was aware of his status as a felon.*

B. Adjective Clause:

Adjective clause serves the same grammatical function as an adjective. Adjective clauses typically start with a relative **pronoun** (that, which, who, whose, whom).

Example: *The automobile bumper, which did not have a scratch on it, was placed into evidence.*

C. Adverb Clause:

An adverb clause **serves** the same grammatical function as an adverb. Adverb clauses typically start with one of the following subordinating **conjunctions**:

after, although, as, as long as, as soon as, as well as, because, before, if, insofar as, like, since, though, when, where, whereas, whether, while.

Example: *When it is necessary to ensure a just verdict, the jury must be sequestered.*

Example: *The jury, after it had deliberated for four days, was unable to come to a verdict.*

Tip 5

Adjective and adverb clauses can be cut down to simpler constructions, which include:

Adjective: ***The spotless automobile bumper was placed into evidence. (Compare with B, above.)***

Adverb: ***Sometimes the jury must be sequestered to ensure a just verdict. (Compare with C, above.)***

Preposition: ***After four days of deliberation, the jury was unable to come to a verdict. (Compare with C, above.)***

Verbal: ***Deliberating for four days, the jury was unable to come to a verdict. (Compare with C, above.)***

Appositive: ***New evidence, an unscratched bumper, was introduced. (Compare with A, above.)***

Absolute: ***Its deliberation complete, the jury presented its verdict. (Compare with C, above.)***

feel [state or argue]

for the duration of [during]

For an extensive discussion of clause cutting and more examples of how to do it, see **MTS**, pp. 86-113.

APPENDIX D

Words and Phrases to Avoid

- **Avoid Latin** phrases when writing for lay readers, since these terms may **be obstacles to their understanding**. Use them for legal readers □□□ when they are needed for precision.
- **Avoid** archaic legalisms (*). They are awkward **and** often **lack** precision.
- Avoid redundant and throwaway phrases (#), e.g., “true facts,” “usual habits,” “basic essentials.”

The List

Avoid the following words and phrases:

above* [as an adjective]
above-mentioned*
afore-granted*
aforementioned*
aforesaid*
ameliorate [**improve**, better]
any and **all**#
as to whether [whether]
authorize and **direct**#
before-mentioned?
by and **with**#
by means of [by]
clearly
commence [**begin**, start]
consequence [result]
covenant and **agree**#
deem [consider]
due and **owing**#
each and **every**#
effectuate [carry out]
endeavor (as a **verb**) [try]

for the purpose **hereof***
forthwith [immediately]
hence
henceforward*
hereafter [**after** this . . . takes effect]
hereby*
herein*
hereinafter*
hereinbefore*
heretofore* [before this . . . takes effect]
hereunto*
in accordance **with#** [**by** or under]
in actual fact
in cases in which [when, **where**]
in lieu of [instead of, in place of]
in many cases [many]
in order **to#** [to]
in regard **to#**
in relation **to#** [about]
in that the
in the event that [**if**]
in the interest of [for]
in **this regard#**
inquire [ask]
institute [**begin**, start]
interrogate[question]
irregardless [**regardless**]
irrespective
is able to [can]
is authorized [may]
is binding upon minds]
is empowered [may]
is **unable** to [cannot]
It is important to note
magnitude [size]
means and **includes#**
mutually **agree#**

necessitate [require]
none **whatever**#
notwithstanding anything to the **contrary***
null and **void**#
obviously
occasion (as a verb) [cause]
of a technical **nature** [technical]
of **course**
period of time [**period**, time]
premises * [in the sense of matters already **referred** to]
prior to [**before**]
procure [**obtain**, **get**]
pursuant to [under]
remunerate [**pay**]
said* [as a substitute for the, that, or those]
same* [as a substitute for it, he, him, etc.]
subsequent [**later**]
sufficient number of [enough]
terminate [**end**]
the fact that
thenceforth*
therefrom*
thereof*
thereon*
thereunto*
therewith*
to the effect that
to wit*
under-mentioned*
until such time as [until]
unto*
utilize, employ (in the sense of use, 'use)
whatsoever*
whensoever*
whereof*
wheresoever*
whosoever*
with reference to [for]
with respect to [**concerning** or **regarding**]
within-named*
witnesseth*

